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SERVICE DATE – AUGUST 3, 2017

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 388X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Atlanta, Ga.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption¹ under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 1.0 mile of rail line between milepost DF 632.10 and milepost DF 633.10 in Atlanta, Ga. (the Line).² The Line traverses United States Postal Service Zip Codes 30324 and 30309.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is

¹ NSR initially filed its verified notice on March 27, 2017. After submitting the filing, NSR discovered that its combined Environmental and Historic Reports (E&HR) contained an incorrect milepost designation which, when changed, impacted the E&HR. At the request of NSR, the proceeding was held in abeyance by a decision served on April 5, 2017. NSR now has corrected and reissued its E&HR. NSR filed its revised verified notice on July 14, 2017, which therefore is the official filing date.

² NSR states that the Line includes the portion of NSR's right-of-way that the Board found not to have been abandoned in Atlanta Development Authority—Verified Petition for a Declaratory Order, FD 35991, slip op. at 9 (STB served Dec. 15, 2016), reconsideration denied, FD 35591 (STB served May 26, 2017). NSR states that it plans to convey the easement and wye right-of-way to Atlanta BeltLine, Inc. for urban development and to improve the City's infrastructure upon consummation of the proposed abandonment.

pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 2, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,700. See 49 C.F.R. § 1002.2(f)(25). Effective September 1, 2017, the filing fee will be \$1,800. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update, EP 542 (Sub-No. 25) (STB served July 28, 2017).

interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by August 11, 2017. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by August 23, 2017, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 8, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and

fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by August 3, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.GOV."

Decided: July 31, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.